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09/642,052	08/21/2000	Marie Lapalme	2425-1-1	6898

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EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 08/14/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No.

09/642,052

Applicant(s)

LAPALME, MARIE

Examiner

Andy S. Rao

Art Unit

2621

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 21 March 2007 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☒ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.

RECEIVED
PRIMARY EXAMINER

Andy S. Rao
Primary Examiner
Art Unit: 2621

Continuation of 10. Other (including any explanation in support of the above items): In particular, the Examiner notes that the Brief of 3/21/07 puts forth an argument that relies upon a Declaration that is supposedly enclosed with the Brief as in Appendix A, said declaration being signed by an expert in the field of adaptive technology used for people with hearing losses (Brief of 3/21/07: page 7, lines 20-31; page 8, lines 1-34). However, the Examiner notes that the Brief also states under the "Evidence Appendix" that no evidence appendix is being provided herewith, and that no Declaration is present with the Brief. Accordingly, the Examiner asserts that as such, the Brief is incomplete, as without this Declaration, the third argument fails on its own. The Examiner has also looked at the prosecution history of the case and notes that the Declaration is not presented in previously filed Briefs of 5/31/05 and 2/2/05, even though this third argument is repeated in those documents as well. In order to overcome this Notice of Non-compliance, the Examiner would suggest to the Appellant that a corrected Brief (i.e. "Evidence Appendix") and accompanying Declaration be provided, so that the forthcoming Examiner's Answer can completely address all outstanding issues .